

ASSEMBLY BILL

No. 2454

Introduced by Assembly Member Quirk-Silva

February 21, 2014

An act to amend Section 11403 of the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2454, as introduced, Quirk-Silva. Foster youth: nonminor dependents.

Existing law provides aid and services to children placed in out-of-home care through various social service programs, including California Work Opportunity and Responsibility to Kids (CalWORKs), Aid to Families with Dependent Children-Foster Care (AFDC-FC), Kinship Guardianship Assistance Payment Program (Kin-Gap), and the Adoption Assistance Program. Under existing law, a nonminor dependent, defined to include a person between 18 and 21 years of age and still within the jurisdiction of the juvenile court, continues to be eligible for those social service programs until 21 years of age if he or she is otherwise eligible for that program and one or more other specified conditions are met, including, that the nonminor is employed for at least 80 hours per month or enrolled in an institution that provides postsecondary or vocational education.

This bill would make technical, nonsubstantive changes to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 11403 of the Welfare and Institutions Code is amended to read:

11403. (a) It is the intent of the Legislature to exercise the option afforded states under Section 475(8) (42 U.S.C. Sec. 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the federal Social Security Act, as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), to receive federal financial participation for nonminor dependents of the juvenile court who satisfy the conditions of subdivision (b), consistent with their transitional independent living case plan. Effective January 1, 2012, these nonminor dependents shall be eligible to receive support up to 19 years of age, effective January 1, 2013, up to 20 years of age, and effective January 1, 2014, up to 21 years of age, consistent with their transitional independent living case plan and as described in Section 10103.5. It is the intent of the Legislature both at the time of initial determination of the nonminor dependent's eligibility and throughout the time the nonminor dependent is eligible for aid pursuant to this section, that the social worker or probation officer or Indian tribal placing entity and the nonminor dependent shall work together to ensure the nonminor dependent's ongoing eligibility. All case planning shall be a collaborative effort between the nonminor dependent and the social worker, probation officer, or Indian tribe, with the nonminor dependent assuming increasing levels of responsibility and independence.

(b) A nonminor dependent receiving aid pursuant to this chapter, who satisfies the age criteria set forth in subdivision (a), shall meet the legal authority for placement and care by being under a foster care placement order by the juvenile court, or the voluntary reentry agreement as set forth in subdivision (z) of Section 11400, and is otherwise eligible for AFDC-FC payments pursuant to Section 11401. A nonminor who satisfies the age criteria set forth in subdivision (a), and who is otherwise eligible, shall continue to receive CalWORKs payments pursuant to Section 11253 or, as a nonminor former dependent or ward, aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) or adoption assistance payments as specified in Chapter 2.1 (commencing with Section 16115) of

1 Part 4. Effective January 1, 2012, a nonminor former dependent
2 child or ward of the juvenile court who is receiving AFDC-FC
3 benefits pursuant to Section 11405 and who satisfies the criteria
4 set forth in subdivision (a) shall be eligible to continue to receive
5 aid as long as the nonminor is otherwise eligible for AFDC-FC
6 benefits under this subdivision. This subdivision shall apply when
7 one or more of the following conditions exist:

8 (1) The nonminor is completing secondary education or a
9 program leading to an equivalent credential.

10 (2) The nonminor is enrolled in an institution—~~which~~ *that*
11 provides postsecondary or vocational education.

12 (3) The nonminor is participating in a program or activity
13 designed to promote, or remove barriers to employment.

14 (4) The nonminor is employed for at least 80 hours per month.

15 (5) The nonminor is incapable of doing any of the activities
16 described in subparagraphs (1) to (4), inclusive, due to a medical
17 condition, and that incapability is supported by regularly updated
18 information in the case plan of the nonminor. The requirement to
19 update the case plan under this section shall not apply to nonminor
20 former dependents or wards in receipt of Kin-GAP program or
21 Adoption Assistance Program payments.

22 (c) The county child welfare or probation department, Indian
23 tribe, consortium of tribes, or tribal organization that has entered
24 into an agreement pursuant to Section 10553.1, shall work together
25 with a nonminor dependent who is in foster care on his or her 18th
26 birthday and thereafter or a nonminor former dependent receiving
27 aid pursuant to Section 11405, to satisfy one or more of the
28 conditions described in paragraphs (1) to (5), inclusive, of
29 subdivision (b) and shall certify the nonminor's applicable
30 condition or conditions in the nonminor's six-month transitional
31 independent living case plan update, and provide the certification
32 to the eligibility worker and to the court at each six-month case
33 plan review hearing for the nonminor dependent. Relative
34 guardians who receive Kin-GAP payments and adoptive parents
35 who receive adoption assistance payments shall be responsible for
36 reporting to the county welfare agency that the nonminor does not
37 satisfy at least one of the conditions described in subdivision (b).
38 The social worker, probation officer, or tribal entity shall verify
39 and obtain assurances that the nonminor dependent continues to
40 satisfy at least one of the conditions in paragraphs (1) to (5),

1 inclusive, of subdivision (b) at each six-month transitional
2 independent living case plan update. The six-month case plan
3 update shall certify the nonminor's eligibility pursuant to
4 subdivision (b) for the next six-month period. During the six-month
5 certification period, the payee and nonminor shall report any
6 change in placement or other relevant changes in circumstances
7 that may affect payment. The nonminor dependent, or nonminor
8 former dependent receiving aid pursuant to subdivision (e) of
9 Section 11405, shall be informed of all due process requirements,
10 in accordance with state and federal law, prior to an involuntary
11 termination of aid, and shall simultaneously be provided with a
12 written explanation of how to exercise his or her due process rights
13 and obtain referrals to legal assistance. Any notices of action
14 regarding eligibility shall be sent to the nonminor dependent or
15 former dependent, his or her counsel, as applicable, and the placing
16 worker, in addition to any other payee. Payments of aid pursuant
17 to Kin-GAP under Article 4.5 (commencing with Section 11360)
18 or Article 4.7 (commencing with Section 11385), adoption
19 assistance payments as specified in Chapter 2.1 (commencing with
20 Section 16115) of Part 4, or aid pursuant to subdivision (e) of
21 Section 11405 that are made on behalf of a nonminor former
22 dependent shall terminate subject to the terms of the agreements.
23 Subject to federal approval of amendments to the state plan, aid
24 payments may be suspended and resumed based on changes of
25 circumstances that affect eligibility. Nonminor former dependents,
26 as identified in paragraph (2) of subdivision (aa) of Section 11400,
27 are not eligible for reentry under subdivision (e) of Section 388 as
28 nonminor dependents under the jurisdiction of the juvenile court,
29 unless (1) the nonminor former dependent was receiving aid
30 pursuant to Kin-GAP under Article 4.5 (commencing with Section
31 11360) or Article 4.7 (commencing with Section 11385), or the
32 nonminor former dependent was receiving aid pursuant to
33 subdivision (e) of Section 11405, or the nonminor was receiving
34 adoption assistance payments as specified in Chapter 2.1
35 (commencing with Section 16115) of Part 3 and (2) the nonminor's
36 former guardian or adoptive parent dies after the nonminor turns
37 18 years of age but before the nonminor turns 21 years of age.
38 Nonminor former dependents requesting the resumption of
39 AFDC-FC payments pursuant to subdivision (e) of Section 11405

1 shall complete the applicable portions of the voluntary reentry
2 agreement, as described in subdivision (z) of Section 11400.

3 (d) A nonminor dependent may receive all of the payment
4 directly provided that the nonminor is living independently in a
5 supervised placement, as described in subdivision (w) of Section
6 11400, and that both the youth and the agency responsible for the
7 foster care placement have signed a mutual agreement, as defined
8 in subdivision (u) of Section 11400, if the youth is capable of
9 making an informed agreement, that documents the continued need
10 for supervised out-of-home placement, and the nonminor's and
11 social worker's or probation officer's agreement to work together
12 to facilitate implementation of the mutually developed supervised
13 placement agreement and transitional independent living case plan.

14 (e) Eligibility for aid under this section shall not terminate until
15 the nonminor dependent attains the age criteria, as set forth in
16 subdivision (a), but aid may be suspended when the nonminor
17 dependent no longer resides in an eligible facility, as described in
18 Section 11402, or is otherwise not eligible for AFDC-FC benefits
19 under Section 11401, or terminated at the request of the nonminor,
20 or after a court terminates dependency jurisdiction pursuant to
21 Section 391, delinquency jurisdiction pursuant to Section 607.2,
22 or transition jurisdiction pursuant to Section 452. AFDC-FC
23 benefits to nonminor dependents, may be resumed at the request
24 of the nonminor by completing a voluntary reentry agreement
25 pursuant to subdivision (z) of Section 11400, before or after the
26 filing of a petition filed pursuant to subdivision (e) of Section 388
27 after a court terminates dependency or transitional jurisdiction
28 pursuant to Section 391, or delinquency jurisdiction pursuant to
29 Section 607.2. The county welfare or probation department or
30 Indian tribal entity that has entered into an agreement pursuant to
31 Section 10553.1 shall complete the voluntary reentry agreement
32 with the nonminor who agrees to satisfy the criteria of the
33 agreement, as described in subdivision (z) of Section 11400. The
34 county welfare department or tribal entity shall establish a new
35 child-only Title IV-E eligibility determination based on the
36 nonminor's completion of the voluntary reentry agreement pursuant
37 to Section 11401. The beginning date of aid for either federal or
38 state AFDC-FC for a reentering nonminor who is placed in foster
39 care is the date the voluntary reentry agreement is signed or the
40 nonminor is placed, whichever is later. The county welfare

1 department, county probation department, or tribal entity shall
2 provide a nonminor dependent who wishes to continue receiving
3 aid with the assistance necessary to meet and maintain eligibility.

4 (f) (1) The county having jurisdiction of the nonminor
5 dependent shall remain the county of payment under this section
6 regardless of the youth's physical residence. Nonminor former
7 dependents receiving aid pursuant to subdivision (e) of Section
8 11405 shall be paid by their county of residence. Counties may
9 develop courtesy supervision agreements to provide case
10 management and independent living services by the county of
11 residence pursuant to the nonminor dependent's transitional
12 independent living case plan. Placements made out of state are
13 subject to the applicable requirements of the Interstate Compact
14 on Placement of Children, pursuant to Part 5 (commencing with
15 Section 7900) of Division 12 of the Family Code.

16 (2) The county welfare department, county probation
17 department, or tribal entity shall notify all foster youth who attain
18 16 years of age and are under the jurisdiction of that county or
19 tribe, including those receiving Kin-GAP, and AAP, of the
20 existence of the aid prescribed by this section.

21 (3) The department shall seek any waiver to amend its Title
22 IV-E State Plan with the Secretary of the United States Department
23 of Health and Human Services necessary to implement this section.

24 (g) (1) Subject to paragraph (3), a county shall pay the
25 nonfederal share of the cost of extending aid pursuant to this
26 section to eligible nonminor dependents who have reached 18
27 years of age and who are under the jurisdiction of the county,
28 including AFDC-FC payments pursuant to Section 11401, aid
29 pursuant to Kin-GAP under Article 4.7 (commencing with Section
30 11385), adoption assistance payments as specified in Chapter 2.1
31 (commencing with Section 16115) of Part 4, and aid pursuant to
32 Section 11405 for nonminor dependents who are residing in the
33 county as provided in paragraph (1) of subdivision (f). A county
34 shall contribute to the CalWORKs payments pursuant to Section
35 11253 and aid pursuant to Kin-GAP under Article 4.5 (commencing
36 with Section 11360) at the statutory sharing ratios in effect on
37 January 1, 2012.

38 (2) Subject to paragraph (3), a county shall pay the nonfederal
39 share of the cost of providing permanent placement services
40 pursuant to subdivision (c) of Section 16508 and administering

1 the Aid to Families with Dependent Children Foster Care program
2 pursuant to Section 15204.9. For purposes of budgeting, the
3 department shall use a standard for the permanent placement
4 services that is equal to the midpoint between the budgeting
5 standards for family maintenance services and family reunification
6 services.

7 (3) (A) (i) Notwithstanding any other law, a county's required
8 total contribution pursuant to paragraphs (1) and (2), excluding
9 costs incurred pursuant to Section 10103.5, shall not exceed the
10 amount of savings in Kin-GAP assistance grant expenditures
11 realized by the county from the receipt of federal funds due to the
12 implementation of Article 4.7 (commencing with Section 11385),
13 and the amount of funding specifically included in the Protective
14 Services Subaccount within the Support Services Account within
15 the Local Revenue Fund 2011, plus any associated growth funding
16 from the Support Services Growth Subaccount within the Sales
17 and Use Tax Growth Account to pay the costs of extending aid
18 pursuant to this section.

19 (ii) A county, at its own discretion, may expend additional funds
20 beyond the amounts identified in clause (i). These additional
21 amounts shall not be included in any cost and savings calculations
22 or comparisons performed pursuant to this section.

23 (B) Beginning in the 2011–12 fiscal year, and for each fiscal
24 year thereafter, funding and expenditures for programs and
25 activities under this section shall be in accordance with the
26 requirements provided in Sections 30025 and 30026.5 of the
27 Government Code. In addition, the following are available to the
28 counties for the purpose of funding costs pursuant to this section:

29 (i) The savings in Kin-GAP assistance grant expenditures
30 realized from the receipt of federal funds due to the implementation
31 of Article 4.7 (commencing with Section 11385).

32 (ii) The savings realized from the change in federal funding for
33 adoption assistance resulting from the enactment of Public Law
34 110-351 and consistent with subdivision (d) of Section 16118.

35 (4) (A) The limit on the county's total contribution pursuant to
36 paragraph (3) shall be assessed by the State Department of Social
37 Services, in conjunction with the California State Association of
38 Counties, in 2015–16, to determine if it shall be removed. The
39 assessment of the need for the limit shall be based on a
40 determination on a statewide basis of whether the actual county

1 costs of providing extended care pursuant to this section, excluding
2 costs incurred pursuant to Section 10103.5, are fully funded by
3 the amount of savings in Kin-GAP assistance grant expenditures
4 realized by the counties from the receipt of federal funds due to
5 the implementation of Article 4.7 (commencing with Section
6 11385) and the amount of funding specifically included in the
7 Protective Services Subaccount within the Support Services
8 Account within the Local Revenue Fund 2011 plus any associated
9 growth funding from the Support Services Growth Subaccount
10 within the Sales and Use Tax Growth Account to pay the costs of
11 extending aid pursuant to this section.

12 (B) If the assessment pursuant to subparagraph (A) shows that
13 the statewide total costs of extending aid pursuant to this section,
14 excluding costs incurred pursuant to Section 10103.5, are fully
15 funded by the amount of savings in Kin-GAP assistance grant
16 expenditures realized by the counties from the receipt of federal
17 funds due to the implementation of Article 4.7 (commencing with
18 Section 11385) and the amount of funding specifically included
19 in the Protective Services Subaccount within the Support Services
20 Account within the Local Revenue Fund 2011 plus any associated
21 growth funding from the Support Services Growth Subaccount
22 within the Sales and Use Tax Growth Account to pay the costs of
23 extending aid pursuant to this section, the Department of Finance
24 shall certify that fact, in writing, and shall post the certification on
25 its Internet Web site, at which time subparagraph (A) of paragraph
26 (3) shall no longer be implemented.

27 (h) It is the intent of the Legislature that no county currently
28 participating in the Child Welfare Demonstration Capped
29 Allocation Project be adversely impacted by the department's
30 exercise of its option to extend foster care benefits pursuant to
31 Section 673(a)(4) and Section 675(8) of Title 42 of the United
32 States Code in the federal Social Security Act, as contained in the
33 federal Fostering Connections to Success and Increasing Adoptions
34 Act of 2008 (Public Law 110-351). Therefore, the department shall
35 negotiate with the United States Department of Health and Human
36 Services on behalf of those counties that are currently participating
37 in the demonstration project to ensure that those counties receive
38 reimbursement for these new programs outside of the provisions
39 of those counties' waiver under Subtitle IV-E (commencing with

1 Section 470) of the federal Social Security Act (42 U.S.C. Sec.
2 670 et seq.).

3 (i) The department, on or before July 1, 2013, shall develop
4 regulations to implement this section in consultation with
5 concerned stakeholders, including, but not limited to,
6 representatives of the Legislature, the County Welfare Directors
7 Association, the Chief Probation Officers of California, the Judicial
8 Council, representatives of Indian tribes, the California Youth
9 Connection, former foster youth, child advocacy organizations,
10 labor organizations, juvenile justice advocacy organizations, foster
11 caregiver organizations, and researchers. In the development of
12 these regulations, the department shall consider its Manual of
13 Policy and Procedures, Division 30, Chapter 30-912, 913, 916,
14 and 917, as guidelines for developing regulations that are
15 appropriate for young adults who can exercise incremental
16 responsibility concurrently with their growth and development.
17 The department, in its consultation with stakeholders, shall take
18 into consideration the impact to the Automated Child Welfare
19 Services Case Management Services (CWS-CMS) and required
20 modifications needed to accommodate eligibility determination
21 under this section, benefit issuance, case management across
22 counties, and recognition of the legal status of nonminor
23 dependents as adults, as well as changes to data tracking and
24 reporting requirements as required by the Child Welfare System
25 Improvement and Accountability Act as specified in Section
26 10601.2, and federal outcome measures as required by the federal
27 John H. Chafee Foster Care Independence Program (42 U.S.C.
28 Sec. 677(f)). In addition, the department, in its consultation with
29 stakeholders, shall define the supervised independent living setting
30 which shall include, but not be limited to, apartment living, room
31 and board arrangements, college or university dormitories, and
32 shared roommate settings, and define how those settings meet
33 health and safety standards suitable for nonminors. The department,
34 in its consultation with stakeholders, shall define the six-month
35 certification of the conditions of eligibility pursuant to subdivision
36 (b) to be consistent with the flexibility provided by federal policy
37 guidance, to ensure that there are ample supports for a nonminor
38 to achieve the goals of his or her transition independent living case
39 plan. The department, in its consultation with stakeholders, shall
40 ensure that notices of action and other forms created to inform the

1 nonminor of due process rights and how to access them shall be
2 developed, using language consistent with the special needs of the
3 nonminor dependent population.

4 (j) Notwithstanding the Administrative Procedure Act, Chapter
5 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
6 Title 2 of the Government Code, the department shall prepare for
7 implementation of the applicable provisions of this section by
8 publishing, after consultation with the stakeholders listed in
9 subdivision (i), all-county letters or similar instructions from the
10 director by October 1, 2011, to be effective January 1, 2012.
11 ~~Emergency~~ *The director may adopt emergency* regulations to
12 implement the applicable provisions of this act ~~may be adopted~~
13 ~~by the director~~ in accordance with the Administrative Procedure
14 Act. The initial adoption of the emergency regulations and one
15 readoption of the emergency regulations shall be deemed to be an
16 emergency and necessary for the immediate preservation of the
17 public peace, health, safety, or general welfare. Initial emergency
18 regulations and the first readoption of those emergency regulations
19 shall be exempt from review by the Office of Administrative Law.
20 The emergency regulations authorized by this section shall be
21 submitted to the Office of Administrative Law for filing with the
22 Secretary of State and shall remain in effect for no more than 180
23 days.

24 (k) This section shall become operative on January 1, 2012.